IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 575 of 1989

For Approval and Signature:

HONOURABLE MR.JUSTICE KS JHAVERI

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SOMABHAI BHAILALBHAI VASAVA - Appellant(s)
Versus
MAHESHBHAI RAOJIBHAI PATEL & 1 - Defendant(s)

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Appearance :
MR SN SOPARKAR for Appellant(s) : 1,MR RAJESH K DESAI for Appellant(s) : 1,
NOTICE SERVED for Defendant(s) : 1,
None for Defendant(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 02/08/2006

ORAL JUDGMENT

1.0 By way of this appeal, the appellant has prayed to quash and set aside the judgment and award dated 06.09.1988 passed by the learned Civil Judge (S.D.) & Ex-Officio Commissioner for Workmen's Compensation at Nadiad whereby, the said application was partly allowed.

2.0 The brief facts of the case are that the appellant herein was employed as a Driver on the

Matodar bearing Registration No. TNI – 2177 belonging to respondent no. 1. On 02.09.1983, while the appellant was driving the said vehicle on the Ode – Anand Road, at that time, a Truck bearing Registration No. GRM – 7325 coming from the opposite direction, dashed the said vehicle driven by the appellant. On account of the said accident, the appellant suffered serious bodily injuries. He, therefore, issued a Notice dated 14.07.1984 to respondent no. 1 claiming compensation for the said accident. However, no heed was paid by respondent no. 1 to the said Notice issued by the appellant. He, therefore, filed an application before the trial Court claiming compensation of Rs. 29,400/- along with interest, penalty and costs. The trial Court, by impugned award, partly allowed the said application of the appellant. Hence, the present appeal.

3.0 Heard learned counsel for the parties. It is not in dispute that the appellant has suffered the injuries in question during the course of

employment. So far as the aspect of compensation is concerned, the appellant has stated that he has suffered 100% disability and is not a position to do the work of driving in future as a result of the said accident. The trial Court has recorded the evidence of the Doctor at Exh. 37 who has examined the appellant. The said Doctor has stated that on the date of the medical examination of the appellant, 41% disablement on the person of the applicant was found. He has also stated that the over all disability of the appellant could be assessed at 20.5%. Certificate showing the said percentage of disability is produced at Exh. 38. Hence, the total disability suffered by the appellant is 20.5% and not 100% as stated by the appellant. Accordingly, the trial Court has awarded the compensation taking the disability of the appellant at 20.5%.

3.1 Considering the medical evidence on record and the relevant Schedule of the Workmen's Compensation Act prevelant at that moment, I am of the view that the compensation awarded by the

trial Court is just and proper. I am in complete agreement with the reasonings given by and the findings arrived at by the trial Court and, hence, find no reason to interfere in this appeal.

4.0 In the result, the appeal is dismissed. No order as to costs.

(K. S. Jhaveri, J.)

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